

(2) In the case of unmarried, legally separated parents with joint custody, or divorced parents with joint custody, children are eligible for child care only when they reside with the Military Service member or eligible civilian sponsor at least 25 percent of the time in a month that the child receives child care through a DoD program. There may be exceptions as addressed in § 79.6.

(e) Promote the cognitive, social, emotional, cultural, language and physical development of children through programs and services that recognize differences in children and encourage self-confidence, curiosity, creativity, self-discipline, and resiliency.

(f) Employ qualified direct program staff whose progression from entry level to positions of greater responsibility is determined by training, education, experience, and competency. Ensure that civilian employees maintain their achieved position and salary as they move within the military child care system.

(g) Certify qualified FCC providers who can support the mission requirements of the installation.

(h) Facilitate the availability and expansion of quality, affordable, child care off of military installations that meet the standards of this part to ensure that geographically dispersed eligible families have access to legally operating military-approved community-based child care programs.

(i) Promote the early identification and reporting of alleged child abuse and neglect in DoD CDPs in accordance with DoD Directive 6400.1, “Family Advocacy Program (FAP)” (see <http://www.dtic.mil/whs/directives/corres/pdf/640001p.pdf>).

(j) Ensure that funding is available to meet Military Child Care Act requirements pursuant to 10 U.S.C. 1791 through 1800 and protect the health, safety, and well-being of children in care.

§ 79.5 Responsibilities.

(a) The Assistant Secretary of Defense for Readiness and Force Management (ASD(R&FM)), under the authority, direction, and control of the USD (P&R) shall:

(1) Monitor compliance with this part by personnel under his or her authority, direction, and control.

(2) Annually review and issue a child care fee policy based upon total family income (TFI) for use by programs in the DoD child development system of care.

(b) The Deputy Assistant Secretary of Defense for Military Community and Family Policy (DASD(MC&FP)), under the authority, direction, and control of the ASD(R&FM), shall:

(1) Work across functional areas of responsibility and collaborate with other federal and non-governmental organizations to ensure access to a continuum of quality, affordable CDPs.

(2) Program, budget, and allocate funds and other resources to meet the objectives of this part.

(3) Issue DD Form 2636, “Child Development Program, Department of Defense Certificate to Operate,” to the Military Departments for each CDP found to be in compliance with this part.

(4) Require that the policies and related documents are updated and relevant to the program.

(5) Report DoD Component program data to support legislative, research, and other requirements.

(c) The Heads of the DoD Components shall:

(1) Establish implementing guidance and ensure full implementation within 12 months of the publication date, consistent with this part, to monitor compliance through regular inspection of CDPs and follow-up oversight actions as needed.

(2) Program, budget, and allocate funds and other resources to meet the requirements of this part.

(3) Establish a priority system for all patrons seeking to enroll children in CDPs in accordance with paragraph (a) of § 79.6.

(4) Assess DoD Component demand and take appropriate action to address the child care capability needed on and off the installation in accordance with paragraph (g) of § 79.6.

(5) Establish a hardship waiver policy to address financial and operational situations.

(6) Submit fiscal year annual summary of operations reports to the

DASD(MC&FP) by December 30 of each year using Report Control Symbol DD-P&R(A) 1884, "Department of Defense Child Development Program (CDP) Annual Summary of Operations."

(7) Require that background checks are conducted for individuals who have contact with children in DoD CDPs in accordance with DoDI 1402.5, "Criminal History Background Checks on Individuals in Child Care Services" (available at <http://www.dtic.mil/whs/directives/corres/pdf/140205p.pdf>) and 32 CFR part 86 and paragraph (c)(1) of § 79.6.

(8) Require that all individuals who have contact with children in a DoD CDP complete a DD Form X656 "Basic Criminal History and Statement of Admission".

(9) Require that each CDP establishes a Parent Board in accordance with 10 U.S.C. 1783 and 1795.

(10) Forward the results of DoD Component inspections to the DASD(MC&FP).

(11) Ensure that all incidents that occur within a DoD CDP and involve allegations of child abuse or neglect, revocation of accreditation, or hospitalization of a child, are reported to DASD (MC&FP) through the Office of Family Policy (OFP/CY) within 72 hours of the incident.

(12) Notify the DASD(MC&FP) through OFP/CY if, at any time, a facility in the CDP is closed due to a violation (see paragraph (c)(4)(ii) of § 79.6, for more information on violations).

(13) Provide the DASD(MC&FP) through OFP/CY with a copy of applications made in accordance with DoD Instruction 5305.5, "Space Management Procedures, National Capital Region" (see <http://www.dtic.mil/whs/directives/corres/pdf/530505p.pdf>) and 40 U.S.C. 590 to the U.S. General Services Administration (GSA) for building space for use in providing child care for DoD personnel, and comply with GSA standards for funding and operation of child care programs in GSA-controlled space.

(i) Where the DoD is the sole sponsoring agency and the space has been delegated to the DoD by the GSA, the space must comply with the requirements prescribed in this part.

(ii) For the National Capital Region, space acquisition procedures in DoD Instruction 5305.5 shall be used to gain

the assignment of space in Government-owned or Government-leased facilities from the GSA.

(14) Require that CDPs follow the recommendations of the Advisory Committee on Immunization Practices (ACIP) and comply with generally accepted practices endorsed by the American Academy of Pediatrics (AAP) and Centers for Disease Control or the latest guidance provided by OFP/CY.

(15) Establish and implement DoD Component-specific child care fees based on the DoD-issued fee policy on an annual basis, and issue supplemental guidance on fees for school-age programs, hourly care, preschool programs, DoD Component approved community-based programs, and FCC subsidies. Submit DoD Component-specific requests for waiver for any deviation from DoD policy, including selection of the high or low cost fee option, to the Office of the DASD (MC&FP) through OFP/CY for approval.

(16) Establish guidelines for communication between command, installation, and educational and behavioral support systems.

(17) Require that all military installations under their authority follow guidance that addresses the ages and circumstances under which a child under 13 years of age can be left at home alone without adult supervision, also known as a "home alone policy," or "self-care policy." The installation commander should approve this policy in consultation with the installation director of the Family Advocacy Program. Guidance is consistent with or more stringent than applicable laws and ordinances of the State and country in which the installations are located.

(18) Establish guidance and operating procedures to provide services for children with special needs in accordance with 32 CFR part 56, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or conducted by the Department of Defense" that implement section 504 of the Rehabilitation Act for federally conducted and federally assisted programs and 42 U.S.C. 12102, "The American Disabilities Act" as they apply to children and youth with special needs.

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(i) Require procedures for reviewing and making reasonable accommodation for children with special needs that do not fundamentally alter the nature of the program.

(ii) Consider the needs of the child, the disability, and the environment of group care in child development facilities or home-based care, staffing needs and training requirements, and the resources of the program.

(iii) Include CDPs as part of the Multidisciplinary Inclusion Action Team that supports families of children with special needs.

(19) Establish guidance and operating procedures to provide services for children of the deployed.

(20) Establish standard risk management procedures for responding to emergency or contingency situations. This includes, but is not limited to, natural disasters, pandemic disease outbreaks, allegations of child abuse or neglect, active shooter, or an installation or facility lockdown.

(21) Require that vehicles used to transport children comply with Federal motor vehicle safety standards in accordance with 49 U.S.C. 30125 and applicable State or host nation requirements.

(22) Notify applicable civilian patrons annually of their potential tax liability associated with child care subsidies, and ensure that information required by the third party administrator (TPA) is provided in accordance with 26 U.S.C. 129.

(23) Require that a current plan to implement direct cash subsidies to military-approved child care providers to expand the availability of child care spaces and meet specialized child care needs, such as weekend and evening care, special needs, deployment support, and respite child care support, is in place.

(d) The Secretaries of the Military Departments, in addition to the responsibilities in paragraph (c) of this section, shall:

(1) Work with the Heads of the DoD Components to implement CDPs in accordance with this part.

(2) Notify the OFP/CY of any Service-wide specific requirements that will require a waiver to deviate from existing policy.

(e) The Installation Commanders (under the authority, direction, and control of the Secretary of the Military Department concerned) shall:

(1) Require that CDPs within his or her jurisdiction are in compliance with this part.

(2) Require that child care fees are used in accordance with DoD Instruction 5305.5 and paragraph (c)(2) of § 79.6.

(3) Require that CDP direct program staff are paid in accordance with Volume 1405 of DoD Instruction 1400.25, “DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Pay and Allowances” (available at <http://www.dtic.mil/whs/directives/corresp/pdf/1400.25-V1405.pdf>). Ensure 75 percent of the program’s direct program staff total labor hours are paid to direct program staff who are in benefit status.

(4) Require that there are adequate numbers of qualified professional staff to manage the CDPs according to the Service manpower and child space staffing requirements and referenced in paragraphs (c) and (d) of § 79.6 of this part.

(5) Manage child care priority policy, as directed by their respective DoD Component.

(6) Manage hardship waiver policy (financial and operational), as directed by their respective DoD Component.

(7) Review and validate the demand for installation child care capacity and take appropriate action to expand the availability of care as needed. See paragraph (h) of § 79.6 of this part.

(8) Convene a Parent Board, and ensure that a viable Parent Participation Program is in accordance with 10 U.S.C. 1783 and 1795.

(9) Implement mandated annual and periodic inspections and complete required corrective and follow-up actions within timeframes specified by their respective DoD Component.

(f) *Directors of the Defense Agencies and DoD Field Activities.* In addition to the responsibilities in paragraph (c) of this section, the Directors of the Defense Agencies and DoD Field Activities shall:

(1) Require that CDPs within his or her jurisdiction are in compliance with this part.

(2) Require that child care fees are used in accordance with DoD Instruction 5305.5 and paragraph (c)(2) of § 79.6.

(3) Require that CDP direct program staff are paid in accordance with Volume 1405 of DoD Instruction 1400.25. Ensure 75 percent of the program's direct program staff total labor hours are paid to direct program staff who are in benefit status.

(4) Require that there are adequate numbers of qualified professional staff to manage the CDPs according to the Service manpower and child space staffing requirements and referenced in paragraphs (c) and (d) of § 79.6 of this part.

(5) Manage child care priority policy, as directed by their respective DoD Component.

(6) Manage hardship waiver policy (financial and operational), as directed by their respective DoD Component.

(7) Review and validate the demand for installation child care capacity and take appropriate action to expand the availability of care, as needed. See paragraph (h) of § 79.6 of this part.

(8) Convene a Parent Board, and require that a viable Parent Participation Program is in accordance with 10 U.S.C. 1783 and 1795.

(9) Implement mandated annual and periodic inspections and complete required corrective and follow-up actions within timeframes specified by their respective DoD Component.

§ 79.6 Procedures.

(a) *Priority System.* To the extent possible, CDPs shall be offered to the qualifying children of eligible patrons.

(1) *Priority 1.* The highest priority for full-time care shall be given to qualifying children from birth through 12 years of age of combat related wounded warriors, child development program direct care staff, single or dual active duty Military Service members, single or dual DoD civilian employees paid from APF and NAF, surviving spouses of military members who died from a combat related incident, and those acting in loco parentis on behalf of the aforementioned eligible patrons. With the exception of combat related wounded warriors, ALL eligible parents or caregivers residing with the child are employed outside the home.

(2) *Priority 2.* The second priority for full-time care shall be given equally to qualifying children from birth through 12 years of age of active duty Military Service members, DoD civilian employees paid from APF and NAF, surviving spouses of military members who died from a combat related incident, and those acting in loco parentis on behalf of the aforementioned eligible patrons, where a non-working spouse, or in the case of a DoD civilian employee with a same-sex domestic partner, is actively seeking employment. The status of actively seeking employment must be verified every 90 days.

(3) *Priority 3.* The third priority for full-time care shall be given equally to qualifying children from birth through 12 years of age of active duty Military Service members, DoD civilian employees paid from APF and NAF, surviving spouses of military members who died from a combat related incident, and those acting in loco parentis on behalf of the aforementioned eligible patrons, where a non-working spouse, or in the case of a DoD civilian employee with a same-sex domestic partner, is enrolled in an accredited post-secondary institution. The status of post-secondary enrollment must be verified every 90 days.

(4) *Space Available.* After meeting the needs of parents in priorities 1, 2, and 3, CDPs shall support the need for full-time care for other eligible patrons such as active duty Military Service members with non-working spouses, DoD civilian employees paid from APF and NAF with non-working spouses or same-sex domestic partners, eligible employees of DoD Contractors, Federal employees from non-DoD agencies, and military retirees on a space available basis. In this category, CDPs may also authorize otherwise ineligible patrons in accordance with 10 U.S.C. 1783, 1791 through 1800, 2809, and 2812 to enroll in the CDP to make more efficient use of DoD facilities and resources.

(5) Individual priorities will be determined based on the date of application with the DoD Component. Components may only establish sub-priorities if unique mission related installation requirements are identified by higher headquarters.